

REMARKS

Claims 1-18, 32, and 33 are pending in this application. Claims 1 and 32 are the independent claims. Claims 1, 7, and 32 are amended. Claims 19-31 were previously cancelled. Reconsideration and allowance of the present application are respectfully requested.

Applicant appreciates the Examiner's acknowledgement and consideration of the drawings filed February 14, 2005.

Objections to the Specification

The Examiner objects to the abstract of the disclosure as not commencing on a separate sheet in accordance with 37 CFR 1.52(b)(4). A revised Abstract of the disclosure has therefore been presented on a separate sheet, apart from any other text included in the disclosure, per the Examiner's request. Additionally, Applicant corrects a minor typographical error in the revised Abstract. Applicant therefore respectfully requests that the Examiner withdraw this objection.

Double Patenting Rejection

Claims 1, 3, 7, 17, 18, 32, and 33 stand provisionally rejected on the ground of nonstatutory, obviousness-type double patenting as being unpatentable over claims 1, 7, 10, 11, 12, 14, 16-19, 23, and 26 of U.S. Patent 7,361,182 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent. Applicant files concurrently with this response a Terminal Disclaimer disclaiming the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term for U.S.

Patent No. 7,361,182. Applicant therefore respectfully requests that the Examiner withdraw this rejection.

Rejections under 35 U.S.C. §102 – Mueller

Claims 1, 2, 7, 9, 10, 12, 32, and 33 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,766,163 (“Mueller”). This rejection is respectfully traversed.

With regard to independent claim 1, the Examiner asserts that Mueller discloses all of the claim limitations. Applicant asserts that Mueller does not disclose a medical needle with maximal and minimal points along the cross section of the needle “wherein the vertical cross-section between the needle tip and the maximal point closest to the needle tip is gradually and continuously increased in accordance with the distance from a needle tip,” as recited in claim 1. Specifically, Applicant draws the Examiner’s attention to FIGS. 4A-4C of Mueller which shows a vertical cross section of a needle increasing and then leveling off, prior to then increasing again, in accordance with a distance from the needle tip up to a maximal point of the needle (see the “maximal points,” or ribs, shown as ribbed shaft 144 on FIG. 4A of Mueller). Therefore, Applicant asserts that Mueller does not disclose all of the limitations of claim 1.

With regard to independent claim 32, Applicant asserts that this claim contains features similar to claim 1 such that at least the same arguments can be made.

For at least the reasons stated above related to independent claims 1 and 32, Applicant asserts that these claims are patentable. Due at least to the dependence of claims 2, 7, 9, 10, 12, and 33 on the independent claims, Applicant therefore asserts

that these claims are also patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §102 be withdrawn.

Rejections under 35 U.S.C. §103 – Mueller by itself, and in view of various combinations of Snow and Petrakis

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Mueller. Claims 4, 5, 14, and 16-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mueller in view of U.S. Patent 6,673,058 ("Snow"). Claims 6, 8, 11, and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mueller in view of U.S. Patent 7,445,616 ("Petrakis"). This rejection is respectfully traversed.

With regard to independent claims 1 and 32, Applicant asserts that these claims are patentable over Mueller for at least the reasons stated above. Applicant asserts that a review of Snow and Petrakis indicates that neither Snow, nor Petrakis, either singly or in combination with each other, remedy the deficiencies of Mueller as stated above. Therefore, Applicant asserts that claims 1 and 32 are patentable over any and all combinations of Mueller, Snow, and Petrakis.

For at least the reasons stated above related to independent claims 1 and 32, Applicant asserts that these claims are patentable. Due at least to the dependence of claims 3, 4, 5, 6, 8, 11, 13, 14, and 16-18 on the independent claims, Applicant asserts that these claims are also patentable.

Therefore, Applicant respectfully requests that this art ground of rejection of this claim under 35 U.S.C. §103 be withdrawn.


CONCLUSION

In view of the above remarks and amendments, Applicant respectfully submits that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,
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By 
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Attachment: Abstract